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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte ELIZABETH BELVA HAMEL, MICHAEL T. HO,
JAMES C. KLEEWEIN, MARK DONALD LEITCH, SAM SAMPSON
LIGHTSTONE, JOHN AI MCPHERSON JR., and JAMES ALAN RUDDY

Appeal 2007-3614
Application 09/912,586
Technology Center 2100

Decided: February 13, 2008

Before LANCE LEONARD BARRY, ST. JOHN COURTENAY III, and STEPHEN C. SIU, *Administrative Patent Judges*.

SIU, *Administrative Patent Judge*.

DECISION ON APPEAL

I. STATEMENT OF THE CASE

Appellants appeal under 35 U.S.C. § 134(a) from the Examiner's final rejection of claims 1-24. We have jurisdiction under 35 U.S.C. § 6(b). We reverse.

A. Invention

11The invention at issue involves loading data from a data source site. Typically, data requested from a source site is unloaded into a file, which is transported to a target site (Spec. 2). Transporting data in this fashion may become problematic if, for example, file formats at the source and target sites are incompatible, if the quantity of data to be transferred exceed a maximum target site operating system file size, or if the data to be transferred span multiple database management systems (*Id.* 2-3).

Appellants invented a method for transporting data from a source site to a target site record by record such that a data record can be transported as soon as one or more data records are unloaded from a source site and data loading at a target site may begin as soon as the record is transported to the target site. In this way, records are loaded at a target site concurrently with unloading of records at the source site (*Id.* 7).

B. Illustrative Claim

Claim 1, which further illustrates the invention, follows:

1. A method for loading data from a remote data source record by record, in a computer system network connecting a source site and a target site via a database connection communication line, the method comprising the following steps:

(a) coupling the source site to at least one data source and to a software server having multi-database access to DBMSs;

(b) at the target site requesting data loading from the source site via a block of Structured Query Language (SQL) statements; and

(c) transporting data record by record via the database connection communication line according to a multi-database access communication protocol, wherein the target site loading records concurrently with the unloading of records in the source site.

C. REJECTIONS

Claims 1, 2, 6-10, 14-18, and 22-24 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over IBM Corporation, *DataJoiner: A Multidatabase Server Version 1 White Paper* 1-18 (1995) ("IBM") and U.S. Patent No. 6,151,602 ("Hejlsberg"). Claims 3, 11, and 19 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over IBM, Hejlsberg, and Vibby Gottemukkala, Anant Jhingran & Sriram Padmanabhan, *Interfacing Parallel Applications and Parallel Databases* 1-10 (1997) ("Gottnmukkala"). Claims 4, 5, 12, 13, 20 and 21 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over IBM, Hejlsberg, and Costas Vassilakis, Panagiotis Georgiadis & Timos Sellis, *Implementing Embedded Valid Time Query Languages* 1-12 (1998).

II. ISSUES

Appellants dispute the Examiner's conclusion of obviousness of independent claims 1, 9, and 17 and argue that Hejlsberg fails to disclose "transporting data record by record" and "the target site loading records concurrently with the unloading of records in the source site" (App. Br. 11-15).[1]

In response, the Examiner states that "Hejlsberg teaches at Col. 7 line 66 to Col. 8 line 10 that 'a data packet representing ordinary data can be 'partial', meaning the total data content is divided into multiple data packets'" and equates this disclosure with "transmitting data record by record" because "when client receives and unloads the first data packet [that] contains the first set of record[s], the next sets of record[s] are still streaming out of the source site" (Ans. 12)[2].

Based on the record before us, we do not find that Hejlsberg discloses that the client "receives and unloads the first data packet" while the "next sets of record[s] are still streaming out of the source site" as the Examiner indicates. Rather, Hejlsberg discloses that a user who "just wants to see the first N number of rows" of a result set may "later fetch the next set of rows

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[1] We rely on and refer to the revised Appeal Brief, in lieu of the original Appeal Brief, because the latter was defective. We will not consider the original in deciding this appeal.

[2] We rely on and refer to the revised Examiner's Answer, in lieu of the original Examiner's Answer, because the latter was defective. We will not consider the original in deciding this appeal.

in a partial data packet (e.g., as the user scrolls to the end)" (col. 8, ll. 5-8). Thus, the user in the Hejlsberg disclosure receives the first N rows of data, determines the need for additional data, then fetches the next set of rows by scrolling. Hejlsberg does not indicate that these actions are performed concurrently.

A definition of "loading" or "unloading" records was not provided by either the Examiner or Appellants. We adopt standard definitions of the term "loading" and "unloading" to mean installing into a location and removing from a location, respectively. Based on these definitions, we find that Hejlsberg discloses that the user has installed the first data partial data packet locally (loaded) prior to requesting the next set of rows in another partial data packet. At a subsequent time, the user scrolls to request the next partial data packet. By this time, loading of the first partial data packet has been completed. Responsive to the request for the next partial data packet and after the first partial data packet has been loaded, the next partial data packet is unloaded from the source and transmitted to the user. The Examiner does not explain how loading of the first partial data packet at the user site and unloading of the next partial data packet to be sent to the user are accomplished concurrently as recited in independent claims 1, 9, and 17.

Therefore, we reverse the rejection of independent claims 1, 9, and 17 and of claims 2-8, 10-16, and 18-24, which depend therefrom.

III. ORDER

In summary, the rejection of claims 1-24 under § 103(a) is reversed.

REVERSED

BARRY, *Administrative Patent Judge, concurring.*

I concur with my colleagues and write separately with additional observations. Besides the dispute mentioned by my colleagues, the Appellants offer the following complaints. First, "all his [sic] attorney's attempts to obtain an examiner's interview . . . were unnecessarily turned down . . . ." (Br. 4-5.) Second, "Final Office Action introduced two new grounds of rejection . . . that were neither necessitated by Applicant's Amendment nor based on IDS, and Applicant has the right of rebuttal, which was not allowed." (*Id.* 5.) Third, "Section 10 implies that each Examiner may create his/her own rules of writing which is impermissible . . . ." (*Id.* 7.)

"There are a host of various kinds of decisions an examiner makes in the examination proceeding — mostly matters of a discretionary, procedural or nonsubstantive nature — which have not been and are not now appealable to the board . . . when they are not directly connected with the merits of issues involving rejections of claims, but traditionally have been settled by petition . . . . " *In re Hengehold*, 440 F.2d 1395, 1403 (CCPA 1971). Here, the three aforementioned matters should be settled by petition to the Director of the U.S. Patent and Trademark Office rather than by appeal to the Board of Patent Appeals and Interferences.

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